

AMENDED IN ASSEMBLY MARCH 31, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 756

Introduced by Assembly Member Eng ~~Members Eng and Lieu~~

February 26, 2009

An act to add Section 10111.5 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 756, as amended, Eng. Public contracts: reports.

~~The State Contract Act governs~~

Existing law governing contracting between state agencies and private contractors, ~~and~~ sets forth requirements for the procurement of supplies, materials, equipment, and services by state agencies. ~~Existing law and sets out forth the various responsibilities of the Department of General Services and other state agencies in overseeing and implementing state contracting procedures and policies.~~

This bill would require state agencies to prepare an annual report, *available on each agency's Internet Web site*, regarding personal services and consulting services contracts, as defined, entered into by the agency and to *electronically* transmit that report to the Department of Finance ~~for submission to and to~~ the Legislature, as provided.

This bill would require contractors to *electronically* provide specified information to assist the state agency in the preparation of its annual report of personal services and consulting services contracts. This bill would make contractors who fail to provide this information ineligible for any future personal services or consulting services contracts and would cease payment for any ongoing contracts until the information is provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 10111.5 is added to the Public Contract
2 Code, to read:
- 3 10111.5. (a) Each state agency shall annually prepare a report
4 that includes a list of the personal services and consulting services
5 contracts that it entered into during the previous fiscal year. *The*
6 *report shall be available on each agency's Internet Web site.* The
7 report shall be organized to ensure transparency. The listing shall
8 include, but is not limited to, the following information:
- 9 (1) The name and identification number of each contractor.
10 (2) The statutory basis for the authorization of each contract,
11 including, if relevant, any applicable condition permitting personal
12 services contracts provided by Section 19130 of the Government
13 Code.
14 (3) The duration of each contract.
15 (4) The number of amendments to each contract and the number
16 of renewals of each contract, where applicable.
17 (5) The total amount of the contract price over the duration of
18 the contract, including all known amendments to the contract, the
19 total amount paid by the state agency during the most recently
20 completed fiscal year, and the number, cost, bill rate, and staffing
21 levels associated with each type of contract employee retained
22 during the most recently completed fiscal year. Staffing levels
23 shall also be described or accounted for in personnel years or
24 full-time equivalent terms.
25 (6) Costs and relevant staffing information shall be organized
26 and reported using the following contract categories:
- 27 (A) Architectural, engineering, and environmental services and
28 consulting services.
29 (B) Information technology personal services and consulting
30 services.
31 (C) Other personal services and consulting services contracts
32 as follows:
- 33 (i) Professional, administrative, financial, and staff services and
34 consulting contracts.
35 (ii) Legal services and consulting contracts.

1 (iii) Education and information science services and consulting
2 contracts.

3 (iv) Clerical and office services and consulting contracts.

4 (v) Security services and consulting contracts.

5 (vi) Scientific and technical services and consulting contracts.

6 (vii) Facility, equipment, and landscape maintenance services
7 and consulting contracts.

8 (viii) Printing and publishing services and consulting contracts.

9 (ix) Property and food services, including janitorial services,
10 and consulting contracts.

11 (x) Medical and health services and consulting contracts.

12 (xi) Psychiatric, psychological, and social welfare services and
13 consulting contracts.

14 (xii) Miscellaneous.

15 (b) For purposes of this section, the following definitions apply:

16 (1) "Consulting services contracts" has the same meaning as
17 defined in Section 10335.5.

18 (2) "Personal services contracts" means any contract, requisition,
19 or purchase order, excluding public works contracts, under which
20 labor or personal services is a significant, separately identifiable
21 element.

22 (c) (1) To facilitate state agency reporting, contractors shall
23 *electronically* provide all of the staffing and cost information
24 specified in paragraph (5) of subdivision (a) to the agencies at the
25 end of each fiscal year for each and every personal services and
26 consulting services contract operative during that fiscal year.

27 (2) Failure to report the staffing and cost information specified
28 in paragraph (5) of subdivision (a) in a useful and usable manner
29 shall be deemed a material breach of contract. Contractors who
30 fail to provide the information shall be ineligible for any future
31 personal services and consulting services contracts and payments
32 for any ongoing contracts shall cease until the requested
33 information is provided.

34 (d) A ~~written~~ copy of the annual report shall be sent
35 *electronically* within 60 working days after the end of the previous
36 fiscal year to the ~~Department of Finance. The Department of~~
37 ~~Finance shall forward the reports to the Legislature as part of the~~
38 ~~budget submission and approval process. Department of Finance~~
39 *and the Legislature.*

1 (e) This section shall not apply to information resulting from
2 contracts for confidential expert consulting services that constitutes
3 an attorney work product or is protected by the attorney-client
4 privilege.

5 (f) The report shall be made available to the public in ~~a~~ *an*
6 *electronic* format similar to that used by the agency in its Wages
7 and Salaries Supplement report.